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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,659	05/20/2004	Danny C. Rich	58653/01180'	3658
31013 7590 08/17/2007 KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 1177 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER BAKER, CHARLOTTE M	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,659

Applicant(s)

RICH, DANNY C.

Examiner

Charlotte M. Baker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>08/23/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. Replace Specification with proper spacing and font format.

Claim Objections

2. Claims 19 and 32 are objected to because of the following informalities: in claim 19, replace "crocking" with --cracking--; in claim 32, replace "the method comprising" with --the system comprising--. Appropriate correction is required.
3. Regarding claims 1-65, remove brackets before claims (i.e. "[c1]"). In addition, replace claims with proper spacing and font.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-12, 15-26, 28-37, 39-51 and 53-64 are rejected under 35 U.S.C. 102(b) as being anticipated by Chan (6,342,952).

Regarding claim 1: Chan discloses (a) electronically providing a plurality of colors (database, Fig. 1, software package C 22) and a plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); (b) electronically providing a plurality of color ink formulas (Fig. 1, software package C 22, ink formulations corresponding to database desired color, col. 3, ln. 55 through col. 4, ln. 3), each of the plurality of color ink formulas (ink formulation matching desired color according to database of colors) capable of defining a color ink suitable (ink formulation) for producing at least one

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color for at least one colored print (printed ink) and based on the at least one criteria (col. 3, ln. 55 through col. 4, ln. 11); (c) electronically making a color selection from the plurality of colors (col. 3, ln. 55 through col. 4, ln. 11, uses the database information to select an ink formulation); (d) electronically making a selection of at least one criteria from the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); and (e) electronically matching the selected color and the at least one selected criteria thereby allowing for the electronic selection of the at least one color ink formula (ink formulation) that is suitable to produce the color (col. 3, ln. 55 through col. 4, ln. 39).

Regarding claim 2: Chan satisfies all the elements of claim 1. Chan further discloses electronically selecting a suitable color ink formula in step e (col. 3, ln. 55 through col. 4, ln. 3); and electronically transmitting to a color product development specialist the color ink formula (col. 3, ln. 55 through col. 4, ln. 11).

Regarding claim 3: Chan satisfies all the elements of claim 2. Chan further discloses wherein the color product development specialist is **at least one** of a manufacturer, separator, printer, designer and ink manufacturer (ink manufacturer, col. 4, ln. 4-11).

Regarding claim 4: Chan satisfies all the elements of claim 1. Chan further discloses wherein the criteria includes **at least one** of a substrate, financial cost, availability and pigment formulation (substrate, col. 3, ln. 55 through col. 4, ln. 39).

Regarding claim 5: Chan satisfies all the elements of claim 1. Chan further discloses wherein the criteria (col. 3, ln. 55 through col. 4, ln. 39) includes the ability for a color to resist **at least**

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one of sunlight, water, solvent, acid, alkali, temperature, humidity, abrasion, cracking, bending, light and ultraviolet radiation (Abstract, col. 3, ln. 60-66 and col. 4, ln. 30-39).

Regarding claim 6: Chan satisfies all the elements of claim 1. Chan further discloses wherein the steps a - e occur over a communication network (global communication network, col. 2, ln. 65-66).

Regarding claim 7: Chan satisfies all the elements of claim 6. Chan further discloses wherein the communication network is the Internet (Internet, col. 2, ln. 65 through col. 3, ln. 18).

Regarding claim 8: Chan satisfies all the elements of claim 6. Chan further discloses wherein the communication network is an intranet (communication network, col. 2, ln. 65-66).

Regarding claim 9: Chan satisfies all the elements of claim 1. Chan further discloses storing color information in an electronic color library (database), the color information representing the plurality of colors (database, Fig. 1, software package C 22 and col. 3, ln. 55 through col. 4, ln. 3).

Regarding claim 10: Chan satisfies all the elements of claim 9. Chan further discloses wherein the color information is formatted as **at least one** of spectral data, CIEXYZ, CIELAB, CIELUV, CIEUVW, color space, chromaticity coordinates xy, u"v" and uv, computer graphics triplets including RGB, CMYK, HLS, HIS, HSV and HVC, Munsell notation, Swedish Natural Color System notation, Color-Curve notation, RAL notation, Pantone color number, DIC color number, opal tone, DIN color notation, Color Marketing Group color name, and Color Association of the United States color name (col. 4, ln. 46-58).

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Regarding claim 11: Chan satisfies all the elements of claim 9. Chan further discloses providing an assigned name for each color of the plurality of colors (color database, col. 3, ln. 55 through col. 4, ln. 3).

Regarding claim 12: Chan satisfies all the elements of claim 9. Chan further discloses wherein the electronic color library resides on at least one site processor (color database, Fig. 1, software package 22, col. 3, ln. 55 through col. 4, ln. 3).

Regarding claim 15: Chan discloses (a) receiving electronic color information, the electronic color information representing a plurality of colors (database, Fig. 1, software package C 22) (col. 3, ln. 55 through col. 4, ln. 39); (b) receiving electronic criteria information, the electronic criteria information representing a plurality of criteria having an impact on at least one of the plurality of colors (col. 3, ln. 55 through col. 4, ln. 39); (c) receiving electronic color ink formula information (Fig. 1, software package C 22, ink formulations corresponding to database desired color, col. 3, ln. 55 through col. 4, ln. 3), the electronic color ink formula information representing formulas (ink formulation) for making color ink suitable for producing the plurality of colors and based on at least one of the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); (d) providing an electronic color selection, the electronic color selection representing a choice of one of the plurality of colors (col. 3, ln. 55 through col. 4, ln. 11, uses the database information to select an ink formulation); and (e) providing the selection of electronic color ink formulas (ink formulation) that is suitable to produce a color based on the electronic color selection (col. 3, ln. 55 through col. 4, ln. 39) and based on the at least one of the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39).

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Regarding claim 16: Chan satisfies all the elements of claim 15. Chan further discloses electronically transmitting to at least one color product development specialist an electronic color ink formula corresponding with the selection of electronic color ink formulas (col. 4, ln. 4-11).

Regarding claim 17: Chan satisfies all the elements of claim 16. Arguments analogous to those stated in the rejection of claim 3 are applicable.

Regarding claim 18: Chan satisfies all the elements of claim 15. Arguments analogous to those stated in the rejection of claim 4 are applicable.

Regarding claim 19: Chan satisfies all the elements of claim 15. Arguments analogous to those stated in the rejection of claim 5 are applicable.

Regarding claim 20: Chan satisfies all the elements of claim 15. Arguments analogous to those stated in the rejection of claim 6 are applicable.

Regarding claim 21: Chan satisfies all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 7 are applicable.

Regarding claim 22: Chan satisfies all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 8 are applicable.

Regarding claim 23: Chan satisfies all the elements of claim 15. Chan further discloses storing the electronic color information in an electronic color library (color database, col. 3, ln. 55 through col. 4, ln. 3).

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Regarding claim 24: Chan satisfies all the elements of claim 23. Arguments analogous to those stated in the rejection of claim 10 are applicable.

Regarding claim 25: Chan satisfies all the elements of claim 23. Arguments analogous to those stated in the rejection of claim 11 are applicable.

Regarding claim 26: Chan satisfies all the elements of claim 23. Arguments analogous to those stated in the rejection of claim 12 are applicable.

Regarding claim 28: Chan discloses (a) receiving a physical sample of the color (col. 2, ln. 48-57); (b) generating electronic color information from the physical sample (col. 2, ln. 48-57), the electronic color information representing the color (col. 2, ln. 48-57); (c) electronically providing the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); (d) electronically providing at least one color ink formula (ink formulation), each of the at least one color ink formula capable of defining a color ink suitable for producing the color for the colored print (Fig. 1, software package C 22, ink formulations corresponding to database desired color, col. 3, ln. 55 through col. 4, ln. 3) and based on at least one of the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); (e) making an electronic selection (col. 3, ln. 55 through col. 4, ln. 39) of at least one criteria from the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); and (f) electronically matching the electronic color information with the selected criteria thereby allowing for the electronic selection of the at least one suitable color ink formula (ink formulation) (col. 3, ln. 55 through col. 4, ln. 39).

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Regarding claim 29: Chan satisfies all the elements of claim 28. Chan further discloses electronically transmitting to at least one color product development specialist an electronic color ink formula corresponding with the selection of electronic color ink formula (col. 4, ln. 4-11).

Regarding claim 30: Chan satisfies all the elements of claim 28. Arguments analogous to those stated in the rejection of claim 4 are applicable.

Regarding claim 31: Chan satisfies all the elements of claim 28. Arguments analogous to those stated in the rejection of claim 5 are applicable.

Regarding claim 32: Chan discloses (a) a memory (Fig. 1, software package 22), the memory electronically providing a plurality of colors (color database) and the plurality of criteria, the memory further electronically providing a plurality of color ink formulas (ink formulations), each of the plurality of color ink formulas (ink formulations) capable of defining a color ink suitable for producing at least one color for a colored print (printed ink) and based on at least one of the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39); (b) an electronic color selection module (Fig. 1, computer 4), the electronic color selection module providing an interface (graphical user interface, col. 4, ln. 12-29 and Fig. 2) to make an electronic color selection from the plurality of colors (color database) (col. 3, ln. 55 through col. 4, ln. 39); (c) an electronic criteria selection module (Fig. 2), the electronic criteria selection module providing an interface (graphical user interface) to make an electronic selection of at least one criteria from the plurality of criteria (Fig. 2) (col. 3, ln. 55 through col. 4, ln. 39); and (d) an electronic matching module (Fig. 1 software package 22), the electronic matching module matching the selected color (desired color) and the at least one selected criteria thereby allowing for the electronic selection

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of the at least one suitable color ink formula (ink formulation) (col. 3, ln. 55 through col. 4, ln. 39).

Regarding claim 33: Chan satisfies all the elements of claim 32. Arguments analogous to those stated in the rejection of claim 6 are applicable.

Regarding claim 34: Chan satisfies all the elements of claim 33. Arguments analogous to those stated in the rejection of claim 7 are applicable.

Regarding claim 35: Chan satisfies all the elements of claim 33. Arguments analogous to those stated in the rejection of claim 8 are applicable.

Regarding claim 36: Chan satisfies all the elements of claim 32. Chan further discloses a color ink formula transmission module (Fig. 1, server 10), the color ink formula transmission module transmitting at least one of the plurality of color ink formulas to at least one color product development specialist (col. 4, ln. 4-11).

Regarding claim 37: Chan satisfies all the elements of claim 32. Arguments analogous to those stated in the rejection of claim 10 are applicable.

Regarding claim 39: The structural elements of apparatus claim 32 perform all of the steps of method claim 39. Thus, claim 39 is rejected for the same reasons discussed in the rejection of claim 32.

Regarding claim 40: Chan satisfies all the elements of claim 39. Chan further discloses electronically selecting a suitable colorant formula in step e (ink formulation, col. 3, ln. 55 through col. 4, ln. 39); and electronically transmitting to at least one color product development

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specialist a colorant formula corresponding with the electronic selection of the colorant formula (col. 4, ln. 4-11).

Regarding claim 41: Chan satisfies all the elements of claim 40. Arguments analogous to those stated in the rejection of claim 3 are applicable.

Regarding claim 42: Chan satisfies all the elements of claim 39. Arguments analogous to those stated in the rejection of claim 4 are applicable.

Regarding claim 43: Chan satisfies all the elements of claim 39. Arguments analogous to those stated in the rejection of claim 5 are applicable.

Regarding claim 44: Chan satisfies all the elements of claim 39. Chan further discloses wherein the criteria includes at least one of financial cost (least expensive formulation, col. 3, ln. 60-66), availability and pigment formulation (col. 3, ln. 55 through col. 4, ln. 39).

Regarding claim 45: Chan satisfies all the elements of claim 39. Arguments analogous to those stated in the rejection of claim 6 are applicable.

Regarding claim 46: Chan satisfies all the elements of claim 45. Arguments analogous to those stated in the rejection of claim 7 are applicable.

Regarding claim 47: Chan satisfies all the elements of claim 45. Arguments analogous to those stated in the rejection of claim 8 are applicable.

Regarding claim 48: Chan satisfies all the elements of claim 39. Arguments analogous to those stated in the rejection of claim 9 are applicable.

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Regarding claim 49: Chan satisfies all the elements of claim 48. Arguments analogous to those stated in the rejection of claim 10 are applicable.

Regarding claim 50: Chan satisfies all the elements of claim 48. Arguments analogous to those stated in the rejection of claim 11 are applicable.

Regarding claim 51: Chan satisfies all the elements of claim 48. Arguments analogous to those stated in the rejection of claim 12 are applicable.

Regarding claim 53: Chan discloses (a) electronically receiving color information, the color information representing a plurality of colors (database, Fig. 1, software package C 22) (col. 3, ln. 55 through col. 4, ln. 39); (b) electronically receiving criteria information, the criteria information representing a plurality of criteria having an impact on the at least one plurality of colors (col. 3, ln. 55 through col. 4, ln. 39); (c) electronically receiving colorant information, the colorant information representing formulas (ink formulation) for making at least one colorant suitable for producing the plurality of colors and based on at least one of the plurality of criteria (Fig. 1, software package C 22, ink formulations corresponding to database desired color, col. 3, ln. 55 through col. 4, ln. 3); (d) electronically providing an color selection, the color selection representing a choice of one of the plurality of colors (col. 3, ln. 55 through col. 4, ln. 11, uses the database information to select an ink formulation); and (e) electronically providing the selection of colorant information (ink formulation) that is suitable to produce a color and based on the color selection and based on the plurality of criteria (col. 3, ln. 55 through col. 4, ln. 39).

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Regarding claim 54: Chan satisfies all the elements of claim 53. Chan further discloses electronically transmitting to at least one color product development specialist a colorant formula corresponding with the selection of colorant information (col. 4, ln. 4-11).

Regarding claim 55: Chan satisfies all the elements of claim 54. Arguments analogous to those stated in the rejection of claim 3 are applicable.

Regarding claim 56: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 4 are applicable.

Regarding claim 57: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 5 are applicable.

Regarding claim 58: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 6 are applicable.

Regarding claim 59: Chan satisfies all the elements of claim 58. Arguments analogous to those stated in the rejection of claim 7 are applicable.

Regarding claim 60: Chan satisfies all the elements of claim 58. Arguments analogous to those stated in the rejection of claim 8 are applicable.

Regarding claim 61: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 9 are applicable.

Regarding claim 62: Chan satisfies all the elements of claim 61. Arguments analogous to those stated in the rejection of claim 10 are applicable.

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Regarding claim 63: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 11 are applicable.

Regarding claim 64: Chan satisfies all the elements of claim 61. Arguments analogous to those stated in the rejection of claim 12 are applicable.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13-14, 27, 38, 52 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan in view of Chan.

Regarding claim 13: Chan satisfies all the elements of claim 9.

Chan fails to specifically address displaying an electronic palette of the plurality of colors represented by the color information stored in the electronic color library in the first embodiment.

Chan discloses in the second embodiment displaying an electronic palette of the plurality of colors represented by the color information stored in the electronic color library in the first embodiment (col. 4, ln. 59 through col. 5, ln. 9).

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It would have been obvious to a person of ordinary skill in the art at the time of the invention to include displaying an electronic palette of the plurality of colors in order to provide the closest means of matching and improved quality.

Regarding claim 14: Chan satisfies all the elements of claim 1.

Chan fails to specifically address wherein the step of providing the plurality of colors comprises displaying an electronic palette in the first embodiment.

Chan discloses in the second embodiment wherein the step of providing the plurality of colors comprises displaying an electronic palette (col. 4, ln. 59 through col. 5, ln. 9).

Regarding claim 27: Chan satisfies all the elements of claim 15.

Chan fails to specifically address wherein the step of providing a color selection comprises providing an electronic palette in the first embodiment.

Chan discloses wherein the step of providing a color selection comprises providing an electronic palette in the second embodiment (col. 4, ln. 59 through col. 5, ln. 9).

Regarding claim 38: Chan satisfies all the elements of claim 32. Arguments analogous to those stated in the rejection of claim 13 are applicable.

Regarding claim 52: Chan satisfies all the elements of claim 48. Arguments analogous to those stated in the rejection of claim 13 are applicable.

Regarding claim 65: Chan satisfies all the elements of claim 53. Arguments analogous to those stated in the rejection of claim 13 are applicable.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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